

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PETITIONER PRO-SE

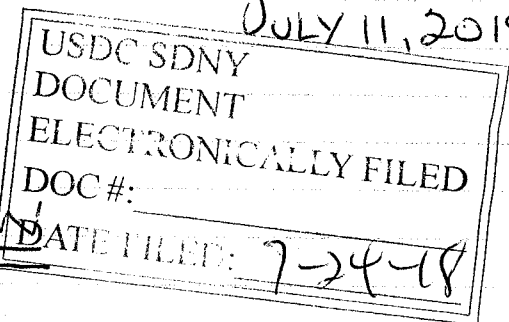
CARL HALL

VS

UNITED STATES OF AMERICA

CASE # 00-CR-103 (JSR)  
#  
10-CV-58 (JSR)

DATE FILED: JULY 11, 2018



MEMORANDUM OF LAW

RECONSIDERATION — REHEARING

AUDITA QUERELA MOTION

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REASONS FOR GRANTING THIS MOTION

UNDER LAW RECONSIDERATION — REHEARING...

- 1) THE COURT APPLIED SEVERAL ENHANCEMENTS TO PETITIONER'S SENTENCE...
- 2) THE PETITIONER'S DUE PROCESS CLAUSE WAS VIOLATED BY NO 851 ENHANCEMENT WARNING...
- 3) THE MATTER ON GROUNDS OF NEWLY DISCOVERED EXISTING LEGAL DEFENSES, NEW CASE LAW...

COMES NOW PRO-SE PETITIONER CARL HALL  
 TO ASK THIS COURT TO REHEAR AND RECONSIDER  
 CASE # 00-CR-103 AND 10-CV-58 TO COMMUTE HIS  
 SENTENCE TO TIME SERVED IN LIGHT OF NEW CASE  
 LAW. SEE CROSS VS U.S., UNITED STATES COURT OF  
 APPEALS FOR THE SEVENTH CIRCUIT, #17-2282 & 17-2724,  
 DECIDED JUNE 7, 2018... SEE SUPREME COURT RULING  
 IN, JOHNSON VS U.S., 135 S. CT. 2551, 192 L. ED.  
 2D 569 (2015)... SEE PEUGH VS U.S., 569 U.S. 530  
 133 S. CT. 2072, 186 L. ED. 2D 84 (2013)... PLEASE  
 TAKE INTO CONSIDERATION DODD VS U.S. WHICH  
 CLARIFIES THAT THIS LIMITATION PERIOD BEGINS  
 WHEN THE SUPREME COURT DECLARES A NEW RIGHT, NOT  
 FROM ONE YEAR DATE! THE COURTS MUST ALWAYS CONSTRU  
 PLEA AGREEMENTS ACCORDING TO THE PRINCIPLES OF  
 CONTRACT LAW, WITH A HEIGHTENED OBLIGATION BOTH  
 TO SECURE FOR DEFENDANTS THE BENEFITS OF THEIR  
 NEGOTIATION AND TO RESTRICT ONLY THOSE RIGHTS THEY  
 PROPERLY RELINQUISHED! AN UN-WARNED ENHANCEMENT  
 VIOLATES THAT FAIRNESS UNDER THE DUE PROCESS CLAUSE!

SEE QUINTERO VS U.S., 618 F.3D 746, 751 (2010)..  
FUTHERMORE, PRO-SE PETITIONER CARL HALL HAS  
A CALCULATION POINTS FLAW AS WELL PERTAINING  
TO THE GUIDELINES.

I PROCEED IN THIS MATTER  
WITHOUT THE REPRESENTATION OF COUNSEL AND I  
RESPECTFULLY INVOKE THE RULES ESTABLISHED IN  
HAINES VS KERNER, 404 U.S. 519, 520 (1972) HOLDING  
PRO-SE LITIGANTS TO LESS STRINGENT STANDARDS  
THEN FORMAL PLEADINGS DRAFTED BY LAWYERS FOR  
WHICH I REQUEST THAT THE COURT CONSTRUE THIS  
PRO-SE MOTION LIBERALLY.

THIS HONORABLE COURT  
MAINTAINS JURISDICTION TO HEAR THIS MOTION FOR  
RECONSIDERATION-REHEARING AUDITA QUERELA  
UNDER THE ALL WRITS ACT, 28 U.S.C § 1651. SEE  
RICHTER VS U.S., 510 F.3D 103, 104 (2<sup>ND</sup> CIRCUIT 2007)  
PETITION FOR AUDITA QUERELA MAY NOT BE USED TO  
CIRCUMVENT AEDPA'S SECOND OR SUCCESSIVE RESTRICTION  
BETTER USED TO FILL IN GAPS IN FEDERAL APPEALS  
AND OVERTURN CONVICTIONS FOR RESENTENCING.

A WRIT OF AUDITA QUERELA IS USED TO CHALLENGE JUDGMENT THAT WAS CORRECT AT THE TIME IT WAS THEN RENDERED BUT WHICH IS RENDERED INFIRM BY MATTERS WHICH ARISE AFTER ITS RENDITION. SURELY THE GOVERNMENT WILL CONCEDE THAT CARL HALL HAS UNDERTAKEN SIGNIFICANT INSTITUTIONAL EDUCATION AND REHABILITATION... SINCE INCARCERATION I HAVE AVOIDED FURTHER CRIMINAL ACTIVITIES, VIOLENCE, AND AM CONSTANTLY MATURING AS A RESPONSIBLE MAN STRIVING TO BE A LAW ABIDING CITIZEN IN SOCIETY... SEE VENTURA VS MEACHUM, 957 F.2D 1048, 1058 (2<sup>ND</sup> CIRCUIT 1992)... MIS INFORMATION AFFECTED DECISION AND I WOULD NOT HAVE PLED BUT FOR MIS ADVICE... SEE HOWARD VS U.S. 381 F.3D 873, 882 (9<sup>TH</sup> CIRCUIT 2004)... PRO-SE PETITIONER WAS CONVICTED AND SENTENCED WHEN THE GUIDELINES WERE MANDATORY, WHILE PROTECTED BY GRIFFITH VS KTY, 479 U.S. 314 (1987) THE UNITED STATES SUPREME COURT RULED IN BLAKELY VS WASHINGTON (2004)...

ONCE BLAKELY VS WASHINGTON (2004) APPLIED TO THE FEDERAL SENTENCING GUIDELINES THROUGH BOOKER VS U.S., 125 S. CT. 738 (2005) AND THIS COURT'S DECISION IN CROSBY VS U.S., 397 F.3D 103 (2<sup>ND</sup> CIRCUIT 2005), AT THAT POINT PETITIONER PRO-SE LITIGANT WAS ENTITLED TO A SENTENCE DETERMINED BY APPENDI VS NEW JERSEY 530 U.S. 466 120 S. CT 2348, 147, L. ED, 2D 435 THE JURY VERDICT ALONE, (NO ENHANCEMENTS). WITHIN BOOKER VS U.S. PART TWO THE REMEDIAL PART, THE COURT RULED THE GUIDELINES WOULD FROM THAT POINT ON BE ADVISORY, THE REMEDIAL PARTS WAS EVEN RULED RETRO-ACTIVE AND PRO-SE PETITIONER LITIGANT CARL HALL WAS RE-SENTENCED, YET SADLY ONLY THE REMEDIAL PART WAS USED AND I AM STILL STUCK WITH SEVERAL ENHANCEMENTS.

SEE WILLIAMS VS ESTELLE, 681 F.2D 946 IN (5<sup>TH</sup> CIRCUIT 1982), SEE MCCOY VS U.S. 215 F.3D 102 (D.C. CIRCUIT 2000), SEE BOOZE VS U.S. 293 F.3D 516 (D.C. CIR 2002)...

THE U.S. SUPREME COURT RULED IN A CASE PEUGH VS U.S. 133 S. CT. 2072, 2078, 186 L. ED. 2D. 84 (2013), THAT VIOLATION OF THE EX POST FACTO CLAUSE OCCURS WHEN A DEFENDENT IS SENTENCED UNDER GUIDELINES PROMULGATED AFTER ADVISORY. IN THE MATTER OF LAW, THIS CASE APPLIES TO THE ISSUE'S IN FRONT OF THE COURT. SEE CROSS VS U.S. COURT OF APPEALS 7<sup>TH</sup> CIRCUIT, #17-2282 & #17-2724, DECIDED 6-7-2018.. THERE IS A DEEP SPLIT BETWEEN THE CIRCUITS AND THE DISTRICT COURT JUDGES, SOME JUDGES HAVE RELEASED PRISONER'S, SOME JUDGES HAVE GIVEN TIME SERVED, SOME JUDGES RESENTENCED TO LESSER TIME, AND THAT'S THE ONE MAIN THING ALL JUDGES HAVE THE POWER TO DO. PETITIONER PRO-SE LITIGANT CARL HALL ARGUMENT IS IN CONSISTENCY WITH THESE RULINGS. SEE BOAL VS U.S., 534 F.3D 965, 967, N2 (8<sup>TH</sup> CIRCUIT 2008), NEWLY DISCOVERED CASE LAWS...



## IN CONCLUSION

I RESPECTFULLY ASK THE COURT AND REQUEST THAT THE COURT ACCEPT THIS MOTION AND GRANT RELIEF ON THIS MOTION AND CALL PRO-SE PETITIONER CARL HALL TO THE COURT AND RE-SENTENCE LITIGANT TO TIME SERVED AS PER THE CORRECT GUIDELINES! WITHOUT ALL THE ENHANCEMENTS!

SEE PADILLA VS KENTUCKY 559 U.S. 356, 373, 130 S. CT 1473, 176 L. ED. 2D 284 (2010)... SEE ARTECA VS U.S., 411 F.3D 315, 320 (2<sup>ND</sup> CIRCUIT 2005)... SEE DAVIS VS GREINER, 428 F.3D 81, 88 (2<sup>ND</sup> CIRCUIT 2005)... SEE LOPEZ VS SCULLY, 58 F.3D 38 (2<sup>ND</sup> CIRCUIT 1995)... ALL 2<sup>ND</sup> CIRCUIT RELEVANT CASES THAT WERE REMANDED BACK TO THE COURTS CONCERNING THESE SAME ISSUES, EXTRAORDINARY CIRCUMSTANCES!

CARL HALL CASE # 7

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT THIS MOTION UNDER THE ALL WRITS ACT WAS HAND DELIVERED TO COUNSELOR BRENDA TORRES ON JULY 11, 2018 WITH POSTAGE ON ENVELOPES AND COPIES TO BE SENT TO THE FOLLOWING ADDRESSES.

I DECLARE EVERYTHING WRITTEN TO BE TRUE UNDER THE PENALTY OF PERJURY!

Carl Hall  
JULY 11, 2018

TO: PRO-SE OFFICE (S.D.N.Y.)  
UNITED STATES DISTRICT COURT  
500 PEARL STREET, ROOM 230  
NEW YORK, NEW YORK 10007

TO: U.S. ATTORNEYS OFFICE (S.D.N.Y.)  
ONE ST. ANDREW'S PLAZA  
NEW YORK, NEW YORK 10007



PRO-SE OFFICE  
CLERK 7-11-2018

CAN YOU & WILL YOU  
PLEASE PLEASE  
FILE THIS MOTION  
WITH THE COURT!

SEND ME A RECEIPT  
THAT YOU RECEIVED  
THIS MOTION A.S.A.P  
PLEASE PLEASE  
THANK YOU!

Name: CARL HALL  
Reg No: 44729-054  
U.S. Penitentiary MAX  
P.O. Box 8500  
Florence, CO. 81226-8500

ADX

7/15/18 *MD*

USM<sup>TP3</sup>  
SDNY



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